

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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WILLIAM WARREN BOOTH,

Plaintiff,

vs.

EILEEN BURLISON, et al.,

Defendants.

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3:15-cv-00255-RCJ-WGC

**ORDER**

On May 14, 2015, Plaintiff William Warren Booth filed a civil rights complaint. On July 8, 2015, the Court dismissed the case with prejudice based on the report and recommendation of the magistrate judge because the complaint failed to state a claim upon which relief may be granted. (*See* ECF Nos. 3, 4). The clerk sent the order dismissing the case to Plaintiff, but it returned as undeliverable. (*See* ECF No. 5). On January 29, 2016, the magistrate judge received a letter from Plaintiff indicating that he was not able to file an appeal of the order because he was incarcerated. (*See* ECF No. 6). He asked whether he could still appeal the ruling. (*Id.*). On March 10, 2016, Plaintiff filed a Motion to Reopen the Time to File an Appeal (ECF No. 7).

Under Federal Rule of Appellate Procedure 4(a)(6), a district court may reopen the time to file an appeal if the following three conditions are satisfied: (1) the party did not receive notice of the order within 21 days after entry; (2) the motion to reopen is filed either within 180 days

1 after the order is entered or within 14 days after the party receives notice of the entry; and (3) the  
2 Court finds that no party would be prejudiced.

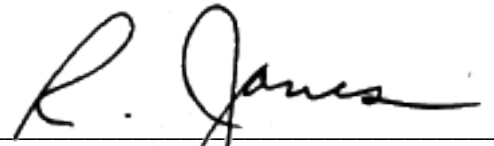
3 The Court must deny the motion to reopen because the second condition of Rule 4(a)(6)  
4 is not satisfied. Plaintiff received notice of the order as of at least January 29, 2016 when the  
5 Court received his letter. The same day, the clerk mailed the order to the new address Plaintiff  
6 provided in the letter. More than 180 days passed from the day the Court entered the order until  
7 the day Plaintiff filed the motion. Also, more than 14 days passed from the day Plaintiff received  
8 notice of the order until he filed the motion on March 10, 2016. The Court denies the motion.

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10 **CONCLUSION**

11 IT IS HEREBY ORDERED that the Motion to Reopen the Time to File an Appeal (ECF  
12 No. 7) is DENIED.

13 IT IS SO ORDERED.

14 DATED: This 12<sup>th</sup> day of April, 2016.

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18 ROBERT C. JONES  
19 United States District Judge  
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